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# In the United States Court of Appeals for the Seventh Circuit

P. & D. MANUFACTURING CO., INC., PETITIONER

*v.*

FEDERAL TRADE COMMISSION, RESPONDENT

## APPENDIX TO RESPONDENT'S BRIEF

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# I

## EXTRACTS FROM TRANSCRIPT OF HEARINGS

### Respondent's Supplement to Testimony

### Printed in Petitioner's Appendix

Witness: CHARLES STANLEY ROGERS [Appendix to petitioner's brief at 94 et seq.]

[222] DIRECT EXAMINATION

. . . . . .

[By Mr. MAYER:]

[229]

Q. All right, sir. Speaking with more particularity, will you describe Commission's Exhibit 4-E?

A. Yes. This shows our part number—this is P. & D. price sheet No. FJP-50, effective August 26, 1949, superseding all previous quotations, and these are the suggested prices we give out to the trade, the jobbers, showing our part number, the popularity key, so far as the popularity [230] of the item is concerned, and the list price and the jobber price. [231] . . . We don't know whether he sells it at that price or any other price, but we suggest that price as the list price and the net to the dealer.

. . . . . .

[255]

Q. And, now, Mr. Rogers, directing your attention to Commission's Exhibit for identification 15-A, -B, -C, and -D, will you tell us what the document 15-A is, sir?

A. This document, 15-A, was the distributor's franchise [256] agreement, application and acceptance, and shows, in

the printed form, what the distributor has to do to qualify as a distributor and what performance he has to make.

. . . . . .

[258]

Q. Now, sir, will you describe for us the documents that have been marked Commission's Exhibit for identification 17-A, -B and -C, sir? [259] . . . These are fuel pump contracts or agreements, and have been in use, I would say, starting in January 1958, to the best of my knowledge.

. . . . . .

[By Mr. Schaup:]

[299]

Q. I also note a popularity key. Will you tell us what use is that.

A. Well, it explains itself right there. A means a very popular part, means it is a newer part. It is very popular as far as usage. As you note right there, B says "Fairly popular parts" and C says "Slow moving parts," and D says "Special parts, order on demand."

. . . . . .

[304]

Q. Now, referring to that exhibit and the chart on it where it says the number of jobbers, 60 receiving 2%, is that what you have reference to?

A. That he said here, this 258 that worked under a rebate, rebate No. 1 and 2, and 92 that received the 10%.

. . . . . .

[305]

Q. Now referring to Commission's Exhibit 20, and the charge there where it says, Number of jobbers 60, does that mean that those jobbers receive from the P. & D. Company only a 2% cash discount?

A. It means that they earn only a 2%. They could have earned up to 15 or 20.

Q. Did they receive any other rebate than the 2% cash discount?

A. Those figures Mr. Piffath has given you, that is what they received.

Q. Mr. Rogers, were there any customers of P. & D. Manufacturing [306] Company purchasing products from the P. & D. Manufacturing Company and getting a rebate on such products purchased of 20% and 2%, who had not signed the document such as Commission's Exhibit 15-A?

A. Any distributor that did business with the P. & D. signed those agreements. Some of them were lost, I think, but they all signed agreements in order to act as a distributor.

[310]

Q. Mr. Rogers, at the bottom on Commission's Exhibit 15-A, the agreement states: "It is mutually agreed that this franchise expires as of December 25th, 19 blank." Do you usually insert a time in those contracts?

A. I think the dates were inserted and I don't think the majority of them were renewed. They just carried on.

[321]

Q. Let me ask you this, sir: Are there any customers purchasing from the P. & D. Company who do so under no contract such as Commission's Exhibit 15-A, B or C?

A. To the best of my knowledge, Mr. Schrup, every customer didn't want to have a contract; some, maybe, do not have contracts or they have signed them and maybe we haven't got them in our files.

[333]

Q. Mr. Rogers, on Commission's Exhibit 20, the 258 customers listed as getting rebates 1 and 2, that means that they purchased under contracts 15-B and -C, which provides discounts ranging from 5% up to 15%?

A. Yes, sir.

Q. Now, turning then to the 92 customers that get rebates of 10%, they get a rebate on 10% because of the purchases?

A. Yes, they also signed these two exhibits 15-B and -C.

Q. But notwithstanding that, they get a rebate of 10% on all purchases, regardless of amount?

A. The majority of them, as I remember, I don't know all the accounts, Mr. Schrup, what they did, some of them, or the majority, fellows that would say: "Wait a minute, we buy $2400 a year and we might buy $100 one month and $300 one month"—well, if the competitors do it we are going to do it, so we gave them the 10% regardless. There might [334] be some that don't earn it, but they get it due to competitive conditions.

Q. The same statement applies to the 86 customers on Commission's Exhibit 1—they receive a flat 15%?

A. Yes.

[335]

Q. Well, the jobbers holding Commission Exhibit 15-A, they get 20% and 2% on all purchases, regardless of how they re-sell them?

A. That is true.

[336]

Q. In addition to some of these jobbers that had contracts 15-B and -C, did not some of them also get a rebate of 10% and 2%, and other 15% and 2%?

A. Yes, I believe there are some that did.

Hearing Examiner BALLINGER: Well, that wasn't uniform, was it?

The WITNESS: No, that was the case of competition coming in, and in order to hold our account, we had to be competitive.

[351]

Q. Mr. Rogers, I will hand you Commission's Exhibits for identification 21 through 38. Would you take up each one and tell us what they are?

Hearing Examiner BALLINGER: Just tell us what they are.

The WITNESS: 21 is an IBM sheet that P. & D. uses as an office copy. This is a copy of the merchandise [352] that was shipped out to Stull Brothers in Pennsylvania.

Q. That reflects the parts furnished and the prices paid for them?

A. It shows the description of the parts, quantity, those items that were back orders, those that were shipped, the unit price and the total price. It also shows whether it was shipped parcel post or freight, and the customer's order and the date of the shipment and our order number.

Q. Mr. Rogers, does it make any difference—does Commission Exhibit 21 represent the invoice of a single shipment of the parts appearing thereon as the result of purchase by Stull Brothers from the P. & D. Manufacturing Company.

A. It does.

[353]

Q. On the date appearing on it?

A. It does.

Q. Would you refer to Commission's Exhibit 22-A and -B for identification?

A. This Exhibit 22-A is similar to Exhibit 21.

Q. Except that it is to a different party?

A. Except it is sent to Wints Auto Parts.

Hearing Examiner BALLINGER: It is the invoice of a single purchase?

The WITNESS: Yes, a single purchase. Their order number and the date shown.

Q. Invoice, Exhibit 21 for identification, and 22-A and -B for identification, do not disclose what rebates were received on those purchases?

A. None whatsoever. 23-A and -B is an invoice made out to Sterling Auto Supply of Scranton, Pennsylvania. It is similar to the other two I mentioned.

Q. That discloses a single shipment of parts purchased by Sterling Auto Supply?

A. Yes. • • •

[356]

Q. Mr. Rogers, with what buying groups has P. & D. Manufacturing Company entered into arrangements for the sale of P. & D. merchandise?

A. When you say buying groups, Mr. Schrup, I made the statement before, we never sold any buying groups and just to clear you up on the matter, the customers in a Six States co-operative group, whatever they call themselves, never meant anything to us. We have sold people like Tarbell-Watter [357] Standard Auto Gear, Mellor, for years, and when we were advised that they were going into a co-operative group and that instructions or orders would be sent through from the Six States, in order to save our business we went with Six States but we never did sign up with any groups.

Q. That is, you hold no formal contracts with Six States Associates?

A. Yes, now. We do business with Six States only.

Q. Do you have any formal contracts?

A. I believe there is. I believe there is a contract with them. I don't know. You would know, we gave it to you, Mr. Opdyke. Now you mentioned other groups. We have had the accounts for many, many years on our books, and when they come to us and say "We are joining up with A,

B or C cooperative," whatever it might be, in order to save our business, we have to go along with them or we would be out of business.

. . . . . .

A. I don't know why you call them buying groups. We call them warehouse distributors.

Q. Well, they are normally called in the trade buying [358] groups.

A. Whatever they are called, I don't know. I know there is a group in the southeast.

Q. What is the name of that?

A. I think it is the Southeast Distributors. It might be some other name.

Q. How many groups in number?

A. I believe there are only two in number that we do business with.

Q. Would that be Six States Associates, the one in Boston?

A. One.

Q. And I think Warehouse Distributors, Inc.?

. . . . . .

[359]

Q. Now referring to the Warehouse Distributors, would the Motor Supply Company of Charleston, West Virginia, be a customer of yours?

[360]

A. They are not customers of ours any longer. We are doing business with the Southeast, whatever they call themselves. We do not get any orders from them as we do from Six States. We do not get orders from people that you mentioned before like Tarbell-Watter or Standard Auto Gear. All our orders are sent into Six States. We do not do business with any of those people but one account.

Q. Is Phelps-Rogers of Washington, D. C., a customer of yours?

A. He was some time, but he is not a customer. He is with that group in the south.

Q. And John Rogers of Atlanta, Georgia?

A. I believe he buys some stuff through the group.

Q. What about the Auto-parts Warehouse in Chattanooga, Tennessee?

A. We did business with them quite a number of years ago, but they tied up with the group.

Hearing Examiner BALLINGER: Are they a member now of the group?

The WITNESS: Well, I mean, this is the Southeast.

[By Mr. SCHRUP:]

Q. Warehouse Distributors?

A. Warehouse Distributors.

Q. Chattanooga, Tennessee?

A. Chattanooga, Tennessee.

[361]

Q. Is there a firm by the name of Wombell Auto Parts?

A. Lexington, Kentucky.

Q. Are they customers of the P. & D. Company?

A. No, they are not. They might buy through the Southeast. They buy through the Southeast. We didn't have any of those in our books since they joined the group.

Q. Well, let's put it this way: When you say Southeast, you mean the Warehouse Distributors?

A. Warehouse Distributors.

. . . . . .

Witness: LOUIS J. ROAZEN: [Appendix to petitioner's brief at 107 et seq.]

. . . . . .

[367] DIRECT EXAMINATION

. . . . . .

[By Mr. SCHRUP:]

[368]

Q. Does your firm employ salesmen?

[369]

A. Yes.

Q. How many?

A. Fifteen.

Q. What is the territory covered?

A. In the same trading area of the branches.

[374]

Q. Now, Mr. Roazen, if we go to Commission's 39-A, in the left-hand corner or column, I should say, there is a terminology "Order For"; what name appears there?

A. The name of the supplier of the merchandise, in this case the P. & D.

Q. And right below that, "Ordered By"?

A. The purchaser or our own name, Standard Auto Gear.

Q. And to the right of the terminology "Ordered By", are the words "Ship To"?

A. In our case that is not necessary because everything comes into our central warehouse at Dorchester.

[375]

Q. That would be Standard Auto Gear in Dorchester, Massachusetts?

A. That is right.

Q. Underneath the terminology is "Quantity"; that is where the number of products ordered is set up?

A. Right.

Q. Word "Description"?

A. The nomenclature of the part number.

Q. And at the bottom of the page, "Six-State Associates By"; who signs that?

A. Somebody with authority to purchase in our own organization.

Q. A member of the Standard Auto Gear?

A. Right.

[377]

Q. Commission's Exhibit 40 for identification is related to Commission's Exhibits 39-A, -B and -C, is it not, sir?

A. That is right.

Q. This Commission's Exhibit 40 results after 39-A is forwarded, 40 follows?

A. It could very well.

Trial Examiner BALLINGER: It could very well?

The WITNESS: Yes.

Trial Examiner BALLINGER: Is that the practice?

The WITNESS: Yes.

[By Mr. SCHRUP:]

Q. Mr. Roazen, I will show you the document marked Commission's Exhibit 41 for identification; would you tell us what that is, please?

A. That is an actual bill from Six-State Associates.

Q. And that document follows the forwarding of Commission's Exhibit 39-A to the P. & D. Manufacturing Company and the receipt by you of the document marked Commission's Exhibit 40 for identification?

A. Yes.

[378]

Q. Now, Mr. Roazen, with reference to Commission's [379] Exhibits 42-A through -D, does the amount appear on that exhibit which corresponds to the amount which appears on Commission's Exhibits for identification and 41 for identification?

A. It does.

[386]

Q. Mr. Roazen, with reference to Commission's Exhibit 40 in the sum of $500.65 appearing thereon resulting from the discount of 15 per cent of $589.00, to whom was the sum of $500.65 paid to?

A. Six-State Associates.

Q. That was as a result of the statement appearing on Commission's Exhibit 41?

A. Yes.

Q. Now, the statement that is Commission's Exhibit 41 is incorporated in Commission's Exhibit 42-A; it is not, sir?

A. Yes.

[387]

Q. And that is the same $500.65 appearing thereon opposite the arrow?

A. That is right, $500.65.

Q. That appears on Commission's Exhibit 42-A?

A. Yes.

Q. Now, the goods that were thus paid for by you were shipped direct from P. & D. to the Standard Auto Gear Company of Dorchester, Massachusetts?

A. Yes.

[390]

Q. On the monthly merchandise payments that you make to Six-State Associates do you receive a 2 per cent discount for cash?

[391]

A. We are so permitted by the manufacturer.

Trial Examiner BALLINGER: Do you exercise your right; do you take it?

The WITNESS: Yes, oh yes, if I may say, off the record, when we have the funds available.

[By Mr. SCHRUP:]

Q. Mr. Roazen, in the purchase of merchandise for resale, is the cash discount of 2 per cent important to you?

[392]

The WITNESS: The answer is yes.

Q. Why is that.

. . . . . .

The WITNESS: The amount that you are able to show as a profit which the company realizes is by availing yourself of the cash discounts. It is quite often the difference between a profit and a loss in any particular year.

. . . . . .

[395] REDIRECT EXAMINATION

[By Mr. SCHRUP:]

[396]

Q. Mr. Roazen, on direct examination, as I recall, you testified prior to joining up as a member of Six-State Associates you received 15 per cent rebate on purchases of P. & D. products?

A. Yes.

Q. And that you now receive that same percentage?

A. Correct.

Q. I believe you also testified that in answer of a question by Mr. Cassedy that Six-State Associates as a result of this transaction which you have described in Boston by Commission's Exhibits 39 through 41 received a 20 per cent rebate or a 20 per cent and 2 per cent rebate?

A. I believe that to be correct.

Q. Now, in addition to the 15 per cent rebate and the 2 per cent rebate that you receive on the face of the invoice, I believe you testified originally you share in the addition to the rebate that was prior received from Six-State Associates on that purchase transaction?

A. That is right.

Q. Your share on that is on the amount of purchases you made of the P. & D. products?

A. That is right.

Trial Examiner BALLINGER: Anything further?

Mr. SCHRUP: One other question.

[3

[By Mr. SCHRUP:]

Q. On your prior purchases from P. & D. Manufacturing Company before joining the Six-State Associates, did you additionally receive a 2 per cent cash discount in addition to the 15 per cent discount?

A. That will have to be a matter of memory. At the present moment my memory tells me that we did not. I may be wrong but that is my present recollection.

Q. At that time you didn't hold a contract with the P. & D. Manufacturing Company?

A. No contract.

Q. Just a verbal agreement?

A. That is right.

. . . . . .

Witness: ARTHUR C. MARQUARDT [Appendix to petitioner's brief at 111 et seq.]

[399] DIRECT EXAMINATION

. . . . . .

[408]

Q. I would like to hand you, Mr. Marquardt, Commission's Exhibit 39-C, the pink copy of the purchase order, how is that processed when it is received by Six-State Associates?

A. Well, we turn some of these purchase orders over to our associate members, the directors of our company who are our associate accounts, to enable them where the case requires to enter an order on this form directly with the manufacturer to save time so as to not be necessary to contact my office here in Boston if they are located in Burlington, Vermont.

. . . . . .

[409]

Q. The invoices and monthly statement that you invoice purchasers of P. & D. products, do they provide for a volume rebate and 2 per cent for cash?

A. Yes.

Q. Will you tell us how that works?

A. It varied. In the case of Standard Auto Gear and The [410] Tarbell-Watters Company we extended a volume rebate of 15 per cent right on the face of our invoice for their P. & D. purchases. In the case of William T. Manning Company and Mellor's Auto Parts we extended a 10 per-cent volume rebate.

Q. Will you tell us the occasion why you arrived at 15 for some and 10 per cent for others?

• • • • •

A. To answer your question, we were aware of the fact that the first two mentioned companies, Standard Auto Gear Company and The Tarbell-Watters Company had qualified and were receiving a 15 per cent discount direct from P. & D. prior to our arrangements of purchasing through Six-State Associates, and we therefore continued to extend the 15 per cent discount [411] to those two companies who had enjoyed that before and the regular 10 per cent which was passed on to other companies, Manning and Mellor's was the 10 per cent which was generally in vogue, as we understood it, to all P. & D. accounts that had certain quantity purchasing ability.

• • • • •

[416]

Trial Examiner BALLINGER: Speaking of products, they are all the same type of product, automotive ignition parts. Of course, there are numerous items in the ignition parts.

Are those parts standardized?

The WITNESS: Fairly well, Mr. Examiner. They vary as to fitting certain cars.

Trial Examiner BALLINGER: Other than fitting and application to the different cars, are they standardized?

The WITNESS: Fairly so.

• • • • •

[422]

[By Mr. SCHRUP:]

Q. Mr. Marquardt, the top line on this exhibit reading from the amount of $16,989.67; what does that represent?

A. Represents the total billings of the amount of our purchases from P. & D. including parcel post and freight during the year 1950.

[423]

Q. As made by Six-State Associates?

A. As made by Six-State Associates.

Q. As made by these four members through Six-State Associates?

A. That is right.

Q. The figure 3,649.30, what does that represent?

A. That is the rebate credited to Six-State Associates by P. & D. Manufacturing Company.

Q. That is with reference to purchase orders signed by Manning, Mellor's, Standard Auto Gear and Tarbell-Watters?

A. I wouldn't say entirely so. Some of those quite possibly may have been issued by our office and signed by us.

Q. And what is the figure 275.28 appearing under the sum of 3,649.30?

A. That is the cash discount earned by Six-State Associates in the payment of our account with P. & D. Manufacturing Company on the discount date.

Q. Now, over on the right-hand column we have the figure $16,989.67 which you have explained and underneath that we have the figure 3,374.02, what does that represent?

A. That is the sum of the two figures we just talked about, the rebate and the cash discount.

Q. And what does the sum $13,615.65 represent?

A. Represents Six-State Associates costs on these purchases after these deductions.

[424]

Q. Now, opposite the "Billing price to members" we have the sum of $14,629.33, that is the actual price to those members?

A. That is right.

Q. Underneath that the amount 13,615.65?

A. That is our cost as reflected above.

Q. And the figure 1,010.20?

A. That is the gross profit.

Q. Now, we have Manning, Mellor, Standard and Tarbell each receiving a certain percentage of the total sales and Manning purchased 2.97 per cent, what does that figure represent?

A. That was the amount that was credited to those members as their share in the gross profit in those purchases.

Q. That is over and above the rebate and cash discount they receive on the base invoice?

A. That is right. Not a payment, merely a payment credited to these members as representative of their gross profit in those transactions.

Q. Some payment was made to them?

A. At the end of the year we disperse the accumulated earnings of not only P. & D. but all the lines we handle, and we disperse those earnings to our associates on what we term a patronage termination. We arrive at those amounts by taking each line line for line and determine each member's purchases of that individual line and his share as [425] credited in those gross profits and them accumulate all those and deduct our operating expenses then the division is made in accordance with the per cent of total sales.

Q. Now, with reference to your figure 2.97 per cent appearing on Exhibit 44 for identification, the same would apply for Mellor's Auto Parts, the figure 7.3 per cent; Standard Auto Gear 62.97 per cent and Tarbell-Watters 26.76 per cent?

A. Those are the amount of gross profit credited to their accounts.

. . . . . .

[430]

[Voir Dire]

Mr. Cassedy: Mr. Marquardt, so far as P. & D. Manufacturing Company is concerned, the Six-State Associates got

what percentage discount from that company as shown by this document?

The WITNESS: We received a discount of 20 per cent [431] from their published jobber wholesale list as a trade discount for functions they expected we were to do.

Trial Examiner BALLINGER: What was that trade discount?

The WITNESS: That is trade functional discount they offered us and in addition we received, of course, the cash discount for payment on the due date.

Trial Examiner BALLINGER: I am still a little hazy about this functional discount, will you explain that?

The WITNESS: Yes, be glad to, Mr. Examiner.

The original arrangement contemplated under the proposal of the P. & D. Manufacturing Company was for Six-State Associates to take in on their line to physical warehouse their merchandise in our own place and to supply our associates who handled the line from this stock we would buy from P. & D. as Six-State Associates. It so happened we got under way with the line and there were only three of our associates that carried on with the line and from a practical standpoint it didn't seem feasible to carry through the original proposal. As a matter of fact, a limited number of our accounts were handling the line and it was anticipated as time went on more of our associates would take that line on and make it practical for us to stock and perform that function for P. & D. as we do for some other lines. We carry a very substantial physical warehouse activity here in our headquarters so we perform [432] that function and numerous other functions in the way of merchandising activities and sales promotion activities as I mentioned prior to assist our associates members in the approved operation of their businesses. We have analyzed their entire purchasing procedures and made recommendations for improvement among those lines all of which may have nothing to do with actual merchandising activities but are functions we perform for our associates.

Trial Examiner BALLINGER: What do you receive for that service?

The WITNESS: Well, it varies from different manufacturers.

Trial Examiner BALLINGER: From this Respondent?

The WITNESS: From this Respondent that function alone was to be the 20 per cent discount before the jobbers' published trade prices.

Trial Examiner BALLINGER: Then when you mentioned the 20 per cent discount that included this functional discount?

The WITNESS: My understanding of it, that was to be our compensation for rendering those functions.

. . . . . .

[434] Mr. CASSEDY: What do you do with those goods that are so purchased?

The WITNESS: To a large extent we warehouse them in our premises and on receipt of the goods we endeavor to sell them to our associates' members.

Mr. CASSEDY: You perform a sales function to your members?

The WITNESS: We perform a sales function and warehouse. We receive the goods and sell.

Mr. CASSEDY: Do you on occasion process some of those goods?

The WITNESS: Yes, in some cases we have technical men, for instance, we will resize a motor bearing. We will carry bearings in stock in what is known as a semi-finished condition and the trade may call on us or through our associates to us for a particular size bearing to fit a motor that is required to have a bearing at 10 thousandths undersize or 20 thousandths under or up to 60 thousandths undersize, and we have to have qualified people to take a bearing of that nature with our machines and size those to the correct size within the thousandths of an inch to fit a motor bearing.

Mr. CASSEDY: Now do you, speaking of you as Six-State Associates, determine what to stock in your warehouse?

Mr. SCHRUP: I have an objection here unless this [435] is being confined to P. & D. products, the practices with products of other manufacturers are not in issue here.

Trial Examiner BALLINGER: Does your testimony relate to purchases from the Respondent company or does it embrace the purchases from all?

The WITNESS: These recent questions have been embracing the general line of goods.

Trial Examiner BALLINGER: Would your answers apply of purchases of the Respondent company only?

The WITNESS: No, they would not for this reason, as I explained before, I have not gotten into warehousing in that particular P. & D. line; therefore, these questions are not particularly relative to P. & D. goods.

• • • • •

[450] CROSS EXAMINATION

[By Mr. CASSEDY:]

Q. Mr. Marquardt, can you state whether or not either or any of these four companies, William T. Manning Company, Mellor's Auto Parts, Standard Auto Gear and Tarbell-Watters are in competition with each other in the resale of P. & D. Manufacturing Company ignition parts?

Trial Examiner BALLINGER: That would be conclusionary, would it not, at best?

Mr. CASSEDY: If this witness knows it, I think he is entitled to state it. It is a fact.

[451] Trial Examiner BALLINGER: Do they sell similar articles, each one of those companies?

The WITNESS: Yes, they do.

Trial Examiner BALLINGER: And they sell them in the same sales territory?

The WITNESS: They do not.

• • • • •

[452] REDIRECT EXAMINATION

[By Mr. SCHRUP:]

Q. Mr. Marquardt, Six-State Associates does not determine what size or type of product that its members will order of P. & D. products, does it?

A. Not in connection with P. & D., I believe.

Q. Regardless as to what size of product that the perspective member pruchases from the P. & D. Company, the same discount of 20 per cent and 2 per cent is allowed by P. & D.?

A. That is right. The only exception of the discount is where an assortment is purchased and then there is a lower discount.

* * * * * *

Witness WILLIAM S. OPDYKE [Appendix to petitioner's brief at 115 et seq.]

* * * * * *

[458] DIRECT EXAMINATION

* * * * * *

[460]

[By Mr. MAYER:]

Q. And, generally, what books and records of the respondent were examined by you in the preparation of the tabulations that were marked as Commission's exhibits for identification this morning.

A. The monthly statements of the respondent as to his customers' debit and credit memoranda, invoices, cash book, sales journals, and a few freight bills.

* * * * * *

[468]

Q. Now, Mr. Opdyke, directing your attention to Commission's Exhibit for identification No. 48, which is headed, "Comparison of Rebate and Discount Allowed to Warehouse Distributors, Inc., Chattanooga, Tennessee on Sales to its Members with Rebate and Discount Allowed on Sales to Other Customers in the same localities during the year 1950," and directing your attention in particular to column 1 of that exhibit headed, "Customer and Location," would

you describe the source or sources from which you gathered the information appearing in that column?

A. Those customers' names were furnished by the respondent.

[470] CROSS EXAMINATION

[473]

[By Mr. FLANAGAN:]

Q. So if a customer did not take a two per cent cash discount in any month, then that would or could have changed the amounts as shown in columns 8 and 11?

A. Columns 8 and 11 are the total of the R and D as marked on the various statements. In other words, if a customer took the cash discount when he was entitled to it, it was reflected on the statement, and that is the basis from figures as reflected on this summary.

Q. And if he did not take it it would not be reflected in those two columns?

A. That is right.

Q. And the fact that he did or did not take it would [474] have an influence upon the percentage figure contained in columns 9 and 12?

A. It would, yes, sir. In other words, I took the actual discounts allowed as shown on the monthly statements.

Q. And P and D Manufacturing Company allows, or grants a monthly rebate in varying amounts on a graduated scale, I mean, the percentage varies between the ignition line and fuel pump line, is that correct?

[475]

A. It does, yes, sir.

Q. And your computations, as contained on Exhibits 46-A through E, inclusive, Mr. Opdyke, do not show the monthly rebates, if any, that the various customers listed in column No. 1 did receive in any one month?

A. Only in total. It does not show it in detail.

Hearing Examiner BALLINGER: What is the answer?

The WITNESS: Only in total, sir. It does not show it by months or in detail on the exhibit. I have it on my work sheets but not on the exhibit.

Hearing Examiner BALLINGER: Would you explain why they do not appear on the exhibit?

The WITNESS: Why they do not appear?

Hearing Examiner BALLINGER: Yes.

The WITNESS: Because this is a summary for the year 1950 of each customer. In other words, the detail is not shown, just the total rebates and discounts allowed, the [476] total purchases of that particular customer for the whole year. My work sheets will show it by the statement or by the month as they were purchased.

. . . . . .

[489]

[By Mr. FLANAGAN:]

Q. Mr. Opdyke, in testifying on direct examination with reference to Commission's Exhibits 47 and 48 for identification, column 1 in both exhibits, you testified that the name and location of the customer was furnished you by the respondent, is that correct? Is that what you testified to?

A. That is right, yes, sir.

Q. Isn't it true that P. and D. Manufacturing Company [490] does not have any account on its books such as Standard Auto Gear, the first name on Exhibit 47 for identification?

. . . . . .

A. Standard Auto Gear was furnished to me as one of the names of the customers, yes, sir.

Hearing Examiner BALLINGER: What is the answer?

The WITNESS: The answer is that the first name appearing on Exhibit No. 47, Standard Auto Gear, was furnished to me as one of the names.

• • • • • • •

The WITNESS: If my memory serves me correctly, [491] possibly not in that form, in that they sell to the group, but there are invoices— • • • There are invoices whereby certain purchases were sent direct to Standard Auto Gear, Boston, Massachusetts. That is where I picked up the parcel post.

• • • • • •

[492] The WITNESS: As I started to say, they, as you know, have an I.B.M. system in which the majority of these transactions are included. The Six-State statement bears the customer number at the top. That is sent out monthly. The purchases of these various customers are all mixed up in there. It would be necessary to trace the invoice number back, which I did, I went back to the invoice, thereby getting the name of the customer from the breakdown, the amount he purchased, the parcel post, and so on.

• • • • • •

[493] The WITNESS: I am looking at a statement here dated February 1, 1950, and on it there is a customer number 8195 in Territory I. I think there are 12 or 15 different invoices. Now to whom those invoices belong I could not tell unless I locate it by invoice number, which I did, and by doing that I could find where the shipment went, to which of these various members, plus the fact that a list was furnished us by the respondent showing Six-State Associates, the group, with the members of that group. That is where I got the name to look for.

Hearing Examiner BALLINGER: Which included the first name appearing on Exhibit No. 47?

The WITNESS: That is right.

• • • • • •

[494]

Q. And would that explanation be true with reference to Commission's Exhibit No. 48, for identification?

A. Not quite, no, it would not be true there.

Q. What is the distinction?

A. The distinction there is that the various members of Warehouse Distributors in this instance were set up on statements with their own customer number on. In other words, a statement bearing the customer number would show that that particular customer purchased all the invoices appearing on the particular statement.

Q. And to whom would all of the monthly statements be sent for purchases on Commission's Exhibits 47 and 48, for identification?

A. In 1947 it would be sent to Six-State and in 1948 it would be sent to Warehouse Distributors.

[495]

Q. And who would pay those statements, if you know?

A. The group. I mean Six-State and Warehouse Distributors.

Hearing Examiner BALLINGER: What is the answer?

The WITNESS: Six-State and Warehouse Distributors.

• • • • • •

WITNESS: SELIG SHAPIRO [Appendix to petitioner's brief at 132 et seq.]

[523] CROSS EXAMINATION

• • • • • •

[524] Hearing Examiner BALLINGER: The counsel for respondent may make the witness a respondent's witness for the purpose of this line of examination.

• • • • • •

[527]

By Mr. FLANAGAN:

Q. Ignition parts were never a big item of your line or in your sales, was it, Mr. Shapiro?

A. On the contrary, it forms a fairly good picture right [528] now.

Q. Since 1950?

A. No, including 1950.

[529]

Q. Isn't it true, Mr. Shapiro, that when you sell car dealers, that 99 per cent of what you sell them is merely on a pick-up basis when they can't get their own source of supply?

[530] The WITNESS: I would say that we tend to hand pick our car dealers, and I do not allow my car dealers to use my facilities for merely pick-up except in isolated instances. In other words, we try to make them a real customer.

WITNESS: WILLIAM O. NICKEL [Appendix to petitioner's brief at 135 et seq.]

[534] DIRECT EXAMINATION

[537] Hearing Examiner BALLINGER: Will you state what companies are selling in the same area that you are selling in—that is, comparable products.

The WITNESS: Any jobber, you can go through the list. You can pick up any jobber. They all handle ignition parts. Everybody handles ignition parts.

[By Mr. MAYER:]

[542]

Q. Once you selected to give this line—any particular line—P & D, for instance, do you not attempt to buy at the most favorable price offered by that manufacturer?

A. We make an effort to buy at the lowest price as possible. We leave it up to the discretion of the company. If they have a scale, we just can't fit ourselves into it, we try [543] to put extra efforts by organization to fit into that bracket.

Q. Do you take advantage of the cash discounts offered to you?

A. We do. We need it in our business.

[544] CROSS EXAMINATION

By Mr. FLANAGAN:

Q. Your opinion, if I understand you correctly, is that your main competition is the fact that you cannot sell the car dealer with few exceptions, is that correct?

A. Car dealers, due to the scarcity of automobiles in the past, have been buying their merchandise direct from car manufacturers. It seems to be a close affiliation with the parts they buy with the cars they received, and it is based on that reason. I don't believe it is so much price.

Price may be a factor. I believe in some cases they might [545] enjoy as much as 45 per cent. In some cases we can give 2 per cent, which the car manufacturer doesn't give, but the car manufacturer has been our biggest competitor.

[546]

Q. Assume that another P & D account in your trading area received in the year 1950 a discount or rebate larger than the discount or rebate that you received in the year

[547] 1950. Assuming that fact, do you have an opinion whether or not such a fact injured you competitively?

Mr. FLANAGAN: Do you have an opinion? Just say "Yes" or "No."

A. Yes, I have an opinion.

Q. What is your opinion?

A. If another account receives a greater discount on the same product we have in this particular line—I am talking about this line, P & D line—I would say it wouldn't hurt us.

Hearing Examiner BALLINGER: You would say it wouldn't hurt you?

The WITNESS: No.

Hearing Examiner BALLINGER: And they being a competitor of yours in the same trading area?

[548] The WITNESS: They wouldn't hurt us because the line doesn't comprise that much volume, and our clerks at the counter don't know whether there is an extra discount involved. That is handled by the Accounting Department, and therefore they wouldn't use that as a medium of getting extra business for their own place. I don't believe there is another clerk in our organization that knows this discount exists. He couldn't use it against anybody else.

REDIRECT EXAMINATION

[550]

[By Mr. MAYER:]

We are talking about the price at which you buy from P & D, and I may characterize this unfairly, but it seems to me that you stated that your purchase price, since the

resale price is maintained, that the difference in the purchase [551] price has nothing to do with your business status.

A. It doesn't change our selling price. We are running under two phases. We run into a buying and selling thing. Buying is one thing, and selling is another.

WITNESS: HOWARD A. STULL [Appendix to petitioner's brief at 138 et seq.]

* * * * *

[552] DIRECT EXAMINATION

* * * * *

[553]

By Mr. MAYER:

Q. Mr. Stull, I wish to direct your attention to a tabulation which is Commission's Exhibit 46-A, -B and -C in this particular record, and particularly to the [554] various towns listed under "Pennsylvania" which begin on 46-C. Would you go down this list for me and pick out the towns in which your salesmen would also call?

A. South Hazelton. Here we are, centered right in Kingston (indicating). Hazelton is about 25 miles south. * * * Hazelton, Old Forge, Wilkes Barre. That's all.

* * * * *

[557]

Q. Mr. Stull, will you explain to us the matter in which the rebate or discount allowed to you by P & D is computed by you?

A. We pay our statement after it has been checked and double checked for the month, and the gross amount of the statement will read "$200", "$300", "$400", and I have seen it up to "$800", and we just take 15 per cent discount from there and mail the check.

Q. As I understand it, that statement would include all the purchases you made during that month?

A. Yes, and we only purchase ignition parts.

[558]

Q. * * *—once you have selected a given line as opposed to any other line, do you not attempt to buy the line that you have selected at the most favorable price offered by the manufacturer?

A. Always.

[560]

Q. Do you take advantage of the cash discount offered to you by your various suppliers?

A. Oh, yes, we take every discount.

Q. Why do you take the cash discounts?

A. If we didn't take the cash discounts from all of our suppliers—this is national—the automotive parts jobbers do not have much left beyond two per cent cash discount in this business. You may wonder about that, but that's how close the national picture is in the automotive jobbing field, and I was going to add that that is why I worry a little bit, but I am concerned a little bit because of the car manufacturer invading what he considers as his business.

We don't consider that it is his business once that [561] automobile has left his factory. It is the fellow's business who can get it, but when they use the kind of tactics they use in trying to keep that business all their own, it is a little difficult for the automobile jobber to have much profit left.

CROSS EXAMINATION

[By Mr. Flanagan:]

Q. I believe you testified that you had a Chevrolet dealer right next door to you?

A. Yes.

Q. You sell him either P & D or United Motor ignition line?

. . . . . .

[563]

A. We sell him what pick-up he many need in United Motor service, but not in P & D. We don't use P & D.

. . . . . .

Witness: Allan G. Smith [Appendix to petitioner's brief at 141 et seq.]

. . . . . .

Direct Examination

[568]

. . . . . .

[571]

By Mr. Mayer:

Q. Do you have competition in the area you just described?

A. Oh, yes.

Q. With whom do you compete in that area?

A. You mean the names?

Q. The general classes, competitors?

A. We call ourselves jobbers, naturally, and there are other jobbers that overlap on our territory, we overlap on theirs. I am in competition with Binghamton jobbers, and ever as far as Newark jobbers, Easton, Hazelton, Allentown, Wilkes-Barre, the jobbers that conduct businesses like ours that overlap.

. . . . . .

[574]

Q. Once you have this selection, though of a particular line on the basis of quality, as you say, do you not attempt to buy at the most favorable price offered by that manufacturer?

A. Well, I don't know that we stress a point on that fact, like, possibly, some other jobbers do.

Q. You like to take advantage of all the discounts offered to you, don't you?

A. Yes, naturally, if we can get it.

* * * * *

Witness: JESSE LEVY [Appendix to petitioner's brief at 143 et seq.]

[577] DIRECT EXAMINATION

* * * * *

[By Mr. MAYER:]

[580]

Q. If you receive a rebate or discount from P & D, would you describe how that comes about or how it works?

A. The only thing I know about it is that we have always had a straight 10.

* * * * *

[581]

Q. Is price the most important factor when you are selecting lines of merchandise offered by the various manufacturers?

A. Only when opposed to like lines, similar lines.

Q. And once you have determined upon a particular line, as the buyer, do you not attempt to buy at the most favorable price offered by that manufacturer?

A. Always.

Q. Do you, as a general rule, take advantage of the cash discounts offered to you by various suppliers?

A. Always.

Q. What is that?

[582]

A. Why do I take cash discounts? I think it's good business.

Q. It is to the benefit of your business to take that?

A. Naturally.

CROSS EXAMINATION

[By Mr. FLANAGAN:]

Q. Is it true that one of the major factors to be determined in selecting any line which you are purchasing is public acceptance of that line? Isn't that a major factor?

[583]

A. That is a determining factor, yes, meaning as one line against the other—meaning, I would say, standardization. If it were a standard line, meaning that it is well known and has public acceptance, yes, that would be a factor.

WITNESS: SOL GOOSAY [Appendix to petitioner's brief at 145 et seq.]

DIRECT EXAMINATION

[587]

[By Mr. MAYER:]

Q. Do you have competition in the resale of your automotive products in the area you just described?

A. Very definitely so.

Q. From whom do you get this competition?

A. Well, we get competition from the automotive dealers, other jobbers, fleets, contractors, et cetera.

. . . . . .

[WITNESS:]

A. There was one order for 800-and-some-odd dollars.

. . . . . .

[593]

[By Mr. MAYER:]

Q. Do you have competition in the resale of your automotive products in this area?

A. Definitely.

. . . . . .

WITNESS: CHARLES S. ROGERS [Appendix to petitioner's brief at 149 et seq.]

. . . . . .

[608] DIRECT EXAMINATION

. . . . . .

[By Mr. MAYER:]

Q. Mr. Rogers, did the P & D Manufacturing Company have a selling arrangement with the Warehouse [609] Distributors, of Chattanooga, Tennessee, during 1950?

A. We never had any arrangement with any buying groups, or this Chattanooga thing that you mentioned. I wouldn't know when we were called in by some of the customers we had that joined that group, and they just more or less told us that they had joined this—whatever they called themselves, and this was the deal, and we had to meet the price in order to keep our business.

Q. Were you selling various members of that particular group during 1950?

A. I couldn't say, Mr. Mayer. We did sell people such as the Harts, Hart Automotive, in Chattanooga, and Warmwell, if my memory serves me right, in Lexington, who were not members at that time. I don't know, they were not members of that group.

Hearing Examiner BALLINGER: I would like to ask you what they told you they were.

The WITNESS: That is when they called us in and told us they were members, and we were called down, I think it was to Chattanooga, and we were asked to come down there and meet with the crowd, if I remember. Now, whether it was '51 or '50, I don't remember.

[610]

[By Mr. MAYER:]

Q. Now, after these customers joined this particular group, Mr. Rogers, would you describe for us a typical transaction where one of these members would purchase merchandise from P & D Manufacturing Company?

A. Well, now, let me see: the only thing I could say in that, was that we agreed to carry on the similar proposition that this group was receiving from a competitor. I think we received a letter, I don't know whether we have it in the file or not, but we would receive an order blank, an order blank from each one of those customers. That order blank reads at the top, I believe was the name of that group.

Q. Warehouse Distributors?

A. Warehouse Distributors, and they sent that order blank in to us, that is, the customer sent the order in to us, and it said "Warehouse Distributors", and it said "Ship to Warmwell" or said ship to this one or that one, and we would in turn ship that, and we would bill the Chattanooga office and they would make payment.

[611]

Q. As I understand it, then, the order originated on the order blank form of Warehouse Distributors, indicating the customer to whom the shipment was to be made?

A. That is right.

Q. And the P. & D Company shipped direct to that particular customer?

A. That is right.

Q. And looked to Warehouse Distributors——

A. For payment.

Q. For payment?

A. Yes. In other words, before we shipped to Warmwell, or whatever the account might be, they shipped in their own order, we received their order on their stationery, and when this changed, we had these accounts for years, then they shipped in this order, at least under the name of the group they belonged to.

Q. Now, Mr. Rogers, on what basis was the determination made of the amount or rebate which was to be allowed these particular customers?

A. Well, it was just a set rebate, as I understand it, to meet the competition. It was 20 per cent as a function rebate. The only function they were supposed to perform, and the usual 10 percent for——

Q. Was that allowed monthly to it?

A. We didn't allow it. They took it off the face of the [612] invoice when they paid the check.

. . . . . .

Q. Now, sir, was the 20 per cent calculated and allowed by the P & D without regard to the size of the individual order?

[613]

A. Well, it was just 20 per cent to anyone that we had in there, I mean the few that we had in that group. We had, I don't know how many, I think there was only four or five out of twenty. I don't know how many members they had. We only had four or five. We had had these customers for years before they joined this group, as I said.

. . . . . .

[621]

Q. Now, I take it these competitors, like P & D, are attempting to sell the regular automotive jobbing trade; is that so, sir?

A. That is true.

Q. Now, Mr. Rogers, in establishing the P & D prices, or the prices which were offered by P & D to the regular jobbing trade, do you take into consideration the prices offered by your competitors to the jobbing trade?

A. Well, we have to be competitive even though our prices are not similar or alike, in many cases, to our competitors—we have to be competitive to place our jobbers in position to compete.

Q. In other words, the prices are aimed at keeping your jobbers competitive?

A. Competitive.

Q. As well as yourself?

A. That is right.

* * * * * *

[628]

Q. I am talking, Mr. Rogers, in the questions, about the automotive replacement business, the garageman, repairman, filling station man, and that class of trade, and the regular normal automotive jobbers, as I understand it, does attempt to sell that particular trade, does he not?

A. I would imagine that is why he is in business.

Q. That is what I am getting at, what I am attempting to find out.

If the two jobbers are both attempting to sell the same class of trade, along with the car dealer who is at least trying to sell that particular segment of it, and the jobbers of the competitors who are normal regular automotive jobbers, they are all attempting to sell the same class of trade.

A. I would only assume that—I say I would assume, I don't know that the jobbers do. They are out after busi-

ness, that is their business, but to tell you what they specifically are trying to do, I couldn't tell you.

Hearing Examiner BALLINGER: Let me put a question to you.

The WITNESS: Yes, Judge.

Hearing Examiner BALLINGER: Assume, which I assume to be a fact, that you have two or more jobbers operating in the same trade area.

[629]

The WITNESS: In some trade areas, we do, sir, and others, we don't.

Hearing Examiner BALLINGER: All right. Now, in those trade areas in which you do have that situation, and you have a potential retail buyer, do not your jobbers compete for that retail buyer's business?

The WITNESS: It is quite obvious they have to go out to get the business, but in this case, as I said, there are so many accounts each jobber has, like we go to the butcher, I go to a certain butcher, and somebody else goes to another certain butcher, we don't all go to the same place, and the same with garages, we don't all go to the same garage. We don't like the salesman, perhaps, or don't like the place.

Now, the automotive retail business is much the same, they might not like someone supplying a competitive line, but would come to us.

Hearing Examiner BALLINGER: They are all looking for a piece of business, are they not?

The WITNESS: They are, but as I say, they can't have it all. That is why there are so many jobbers around, that is what I say.

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P. & D. MANUFACTURING CO., INC.
19-02 STEINWAY STREET
LONG ISLAND CITY 5, N. Y.

No. 228809

| CUSTOMER NO. | TERMS | SHIP. DATE |
|---|---|---|
| 9728 | 3 | 11-29-50 |

SOLD TO

SHIP TO

| SHIPPED VIA | YOUR ORDER NO. | | DATE SHIPPED | OUR ORDER NO. |
|---|---|---|---|---|
| DALLY'S | 11-25-50 | | 11-29 | 181817 |

| DESCRIPTION | QUANTITY | BACK ORDERED | SHIPPED | V | UNIT PRICE | TOTAL |
|---|---|---|---|---|---|---|
| CONN ROD BRG | 2 | | 2 | | .64 | 1.28 |
| CONN ROD BRG | 2 | | 2 | | .64 | 1.28 |
| CONN ROD BRG | 1 | | 1 | | .64 | .64 |
| CONN ROD BRG | 1 | | 1 | | .64 | .64 |
| CONN ROD BRG | 1 | 10 | | | .64 | |
| CONN ROD BRG | 1 | | 1 | | .64 | .64 |
| CONN ROD BRG | 1 | | 1 | | .64 | .64 |
| MOTOR MT | 1 | | 1 | | 2.00 | 2.00 |
| MOTOR MT | 1 | | 1 | | 2.00 | 2.00 |
| MOTOR MT | 1 | | 1 | | 2.00 | 2.00 |
| MOTOR MT | 1 | | 1 | | 2.00 | 2.00 |
| DISTR CAP | 1 | | 1 | | 1.50 | 1.50 |
| DISTR CAP | 1 | | 1 | | 1.50 | 1.50 |
| DISTR CAP | 1 | | 1 | | 1.50 | 1.50 |
| DISTR CAP | 1 | | 1 | | 1.50 | 1.50 |
| DISTR CAP | 1 | | 1 | | 1.50 | 1.50 |
| DISTR CAP | 1 | | 1 | | 1.50 | 1.50 |
| DISTR CAP | 1 | | 1 | | 1.50 | 1.50 |
| [illegible] | 1 | | 1 | | [illegible] | [illegible] |
| [illegible] | 1 | | 1 | | [illegible] | [illegible] |

# P. & D. MANUFACTURING CO., INC.

19-02 STEINWAY STREET
LONG ISLAND CITY 5, N. Y.

No. 228810

| CUSTOMER NO. | TERR. NO. | INV. DAY | YR. |
|---|---|---|---|
| | | | |

| SALES BY | CHECKED BY | PACKED BY | BILLED BY | VERIFIED BY | POSTED |
|---|---|---|---|---|---|
| | | | | | |

TERMS: 2% 10TH PROX., 30 DAYS NET

| CUSTOMER'S ORDER NO. | YOUR ORDER NO. | | DATE SHIPPED | | OUR ORDER NO. | |
|---|---|---|---|---|---|---|
| | | | | | | |

| DESCRIPTION | QUANTITY | BACK ORDERED | SHIPPED | ✓ | UNIT PRICE | TOTAL |
|---|---|---|---|---|---|---|
| [illegible] | 6 | | 6 | | 70 | 4 00 |
| [illegible] | 6 | | 6 | | 70 | 4 00 |
| [illegible] | 4 | | 4 | | 70 | 2 80 |
| [illegible] | 4 | | 4 | | 70 | 2 80 |
| [illegible] | 4 | | 4 | | 70 | 2 80

# P. & D. MANUFACTURING CO., INC.

19-02 STEINWAY STREET
LONG ISLAND CITY 5, N. Y.

No. 228146

SOLD TO
STERLING AUTO SUPPLY
112 JACKSON ST
SCRANTON
PENNSYLVANIA

SHIP TO
SAME

| CUSTOMER NO. | TERR. NO. | MO. | DAY | YR. |
|---|---|---|---|---|
| 8655 | 3 | 11 | 17 | 50 |

| FILLED BY | CHECKED BY | PACKED BY | BILLED BY | DESPATCHED BY | POSTED |
|---|---|---|---|---|---|
| | | | | | |

TERMS: 2% 10TH PROX., 30 DAYS NET

| SHIPPED VIA | YOUR ORDER NO. | | DATE SHIPPED | OUR ORDER NO. |
|---|---|---|---|---|
| DALEYS | 6401 | | 11 17 0 | 120676 |

| DESCRIPTION | | QUANTITY | BACK ORDERED | SHIPPED | ✓ | UNIT PRICE | TOTAL |
|---|---|---|---|---|---|---|---|
| CONTACT | AU-15 | 50 | | 50 | | .30 | 15.00 |
| CONT SET | AU-16-21 | 30 | | 30 | | .44 | 13.20 |
| CONT SET | AU-16-23 | 30 | | 30 | | 1.34 | 40.20 |
| CONT SET | AU-16-27 | 100 | | 100 | | .44 | 44.00 |
| CONT SET | AU-19-2 | 100 | | 100 | | .44 | 44.00 |
| CONTACT | AU-21 | 100 | | 100 | | .44 | 44.00 |
| ROTOR | AU-23 | 100 | | 100 | | .44 | 44.00 |
| DIST CAP | AU-108 | 10 | | 10 | | .89 | 8.90 |
| DIST CAP | AU-110 | 10 | | 10 | | .89 | 8.90 |
| COIL | FC-9 | 6 | 6 | | | | |
| CONT SET | FN-15-13 | 10 | | 10 | | .89 | 8.90 |
| CONT SET | FR-16-17 | 100 | | 100 | | 1.34 | 134.00 |
| CONDO | FRC-103 | 100 | | 100 | | .25 | 25.00 |
| CONDO | FRC-107 | 100 | | 100 | | .25 | 25.00 |
| CONDO | FRC-109 | 100 | | 100 | | .25 | 25.00 |
| CONDO | FRC-110 | 100 | | 100 | | .25 | 25.00 |
| COIL | LC-10 | 6 | | 6 | | 2.25 | 13.50 |
| COIL | LC-128 | 6 | | 6 | | 2.25 | 13.50 |
| CONTACT | RE-15 | 50 | | 50 | | .30 | 15.00 |
| CONT SET | RE-16-22 | 100 | | 100 | | .44 | 44.00 |
| CONT SET | RE-16-24 | 100 | | 100 | | .44 | 44.00 |
| CONTACT | RE-24 | 100 | | 100 | | .44 | 44.00 |
| CONTACT | RE-28 | 100 | | 100 | | .44 | 44.00 |
| CONT SET | RN-22-20 | 1 | | 1 | | | |

41

# P. & D. MANUFACTURING CO., INC.

19-02 STEINWAY STREET
LONG ISLAND CITY 5, N. Y.

No. 228147

SOLD TO

ON R-HS

CUSTOMER NO. | TERR. NO. | INV. DAY | YR.

| FILLED BY | CHECKED BY | PACKED BY | BILLED BY | EXTENSIONS BY | INVOICE |
|---|---|---|---|---|---|
| | | | | | |

TERMS: 2% 10TH PROX., 30 DAYS NET

| SHIPPED VIA | YOUR ORDER NO. | | DATE SHIPPED | | OUR ORDER NO. |
|---|---|---|---|---|---|
| | | | | | |

| DESCRIPTION | QUANTITY | BACK ORDERED | SHIPPED | ✓ | UNIT PRICE | TOTAL |
|---|---|---|---|---|---|---|
| COND UC-107 | 10 | | 10 | | 36 | 360 |
| VOLT FG VH-109H | 2 | 2 | | | | |

YEAR 1960

| | | |
|---|---|---|
| Total billings to Six-State Associates by P & D Mfg. Company (Including P.P. and Freight) | | $16,989.67 |
| Rebates credited by P & D. Mfg. Co. | 3,649.30 | |
| Less: Approximate amount of 2% Cash Discount which is not included on our books as part of cost of Merchandise. | 275.28 | 3,374.02 |
| Cost per our books | | 13,615.65 |

In paying bills to P & D we deduct 20% with the exception of Assortments on which we deduct 10% which makes up this figure of $3,374.02.

| | |
|---|---|
| Billing price to members | 14,629.33 |
| Our cost on these billings | 13,615.65 |
| Gross Profit on P & D Manufacturing Line | 1,010.20 |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Wm. T. Manning | purchased | 2.97% | of total Sales | and were credited with | 2.97% | of Gross Profit or | 30.00 |
| Miller Auto Parts | " | 7.3 % | " | " | 7.3 % | " | 73.74 |
| Standard Auto Gear | " | 62.97% | " | " | 62.97% | " | 636.13 |
| Tarbell-Watters | " | 26.76% | " | " | 26.76% | " | 270.33 |
| | | | | | | | 1,010.20 |

Note: Other members did not purchase any P & D.

5913 44
P.+D. MFG. CO. INC.
12-18-52 Marquardt
DC

Comm Eff 5/1/43 W.E.U.
1/1/43

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P. & D. MANUFACTURING CO., INC. TERRITORY # 3

# DISTRIBUTOR'S REBATE AGREEMENT

This Agreement entered into this 9th day of July-1943 between P. & D. MANUFACTURING CO., INC., LONG ISLAND CITY, NEW YORK, known as the Manufacturer and

(FIRM) Shapiro Auto Supply

(CITY) Wilkes-Barre (STATE) Pa.

known as the Distributor, wherein the Distributor hereby agrees to purchase his or their entire requirements of ignition repair parts as catalogued from the Manufacturer from the above date until.....

In Consideration of the above agreement, the Manufacturer agrees to allow the Distributor the following rebates instead of the usual 2% of the value of all invoices, *EXCEPT on Cabinet Assortments and Merchandisers, Super Chief Magnetos and Super Chief Magneto parts.*

Amount: The amount or rebate earned will be determined by the net purchases shown on your monthly statement.

| On monthly purchases of: | $200.00 to 299.00 | $300.00 to 399.00 | $400.00 to and up |
|---|---|---|---|
| Discounts will be: | 19% Regular - | 13% | 15% |

Cabinet Assortments and Merchandisers are subject to a maximum rebate of ten percent (10%) only.

Super Chief Magnetos and Super Chief Magneto parts are subject only to 2% cash discount, 10th Prox.

Requirements:

Payment: Our terms are: 10th Prox., net thirty days, and no rebate will be allowed unless complete settlement of our account per statement rendered is received not later than the 15th of the month and for purchases shown on statement only.

**In Consideration** of the above agreement, the Manufacturer agrees to allow the Distributor the following rebate instead of the usual 5% of the value of all invoices, *EXCEPT on Cabinet Assortments and Merchandisers, Super Chief Magnetos and Super Chief Magneto parts.*

**Volume:** The amount or rebate earned will be determined by the net purchases shown on your monthly statement.

| On monthly purchases of: | $200.00 to $500.00 | $500.00 to $800.00 | $800.00 to and up |
|---|---|---|---|
| Discounts will be: | 10% | 10% | 10% |

Cabinet Assortments and Merchandisers are subject to a maximum rebate of ten percent (10%) only.

Super Chief Magnetos and Super Chief Magneto parts are subject only to 5% cash discount, 10th Prox.

**Requirements:**

**Payments:** Our terms are: 10th Prox., net thirty days, and no rebate will be allowed unless complete settlement of our account per statement rendered is received not later than the 15th of the month and for purchases shown on statement only.

The above terms must be understood definitely, for we will not, under any consideration, allow this volume rebate unless your check is received not later than the 15th of the month as above stated.

**Empire Coils** are not guaranteed by us and are not subject to replacement or credit. Any part listed in our current catalogue, with the exception of Empire Coils, will be replaced at no charge if it proves defective.

**Return Merchandise:** The Distributor wishing to make returns of our merchandise for exchange under our obsolescence policy must write our main office listing parts to be exchanged and receive our written consent and return merchandise label before making shipment. *ALL RETURNS ARE TO HAVE CHARGES PREPAID.*

**Merchandise** will be accepted for merchandise credit only if listed in the buyer's guide of current catalogue at prevailing selling prices at time of return, less 10% handling charge. All merchandise to be of our manufacture only. No return of assortments, testers, gauges, platinum contacts or Super Chief Magnetos and Super Chief Magneto parts.

**This** supersedes any contracts or agreements of like nature previously made.

P. & D. MANUFACTURING CO., INC.

By: .....

Its .....

SHAPIRO AUTO SUPPLY

Distributor

By: .....

FEDERAL TRADE COMMISSION
Commission's Exhibit No. 51
Docket No. 5012

Discounts will be: 10% Magnetos 18% 10%

Cabinet Assortments and Merchandisers are subject to a maximum rebate of ten percent (10%) only.

Super Chief Magnetos and Super Chief Magneto parts are subject only to 2% cash discount, 10th Prox.

**Requirements:**

**Payment:** Our terms are: 10th Prox., net thirty days, and no rebate will be allowed unless complete settlement of our account per statement rendered is received not later than the 15th of the month and for purchases shown on statement only.

The above terms must be understood definitely, for we will not, under any consideration, allow this volume rebate unless your check is received not later than the 15th of the month as above stated.

**Empire Coils** are not guaranteed by us and are not subject to replacement or credit. Any part listed in our current catalogue, with the exception of Empire Coils, will be replaced at no charge if it proves defective.

**Return Shipments:** The Distributor wishing to make returns of our merchandise for exchange under our distributors policy must write our main office listing parts to be exchanged and receive our written consent and return merchandise label before making shipment. *ALL RETURNS ARE TO HAVE CHARGES PREPAID.*

**Shipments** will be accepted for merchandise credit only if listed in the buyer's guide of current catalogue at prevailing selling prices at time of return, less 10% handling charge. All merchandise to be of our manufacture only. No return of assortments, trailers, gears, platinum contacts or Super Chief Magnetos and Super Chief Magneto parts.

This supersedes any contracts or agreements of like nature previously made.

P. A. E. MANUFACTURING CO.

By: .....

Its .....

SHAPIRO AUTO SUPPLY

Distributor

By: .....

FEDERAL TRADE COMMISSION
Commission's Exhibit No. 51
In the matter of P-A-E Manufacturing Co.
Date 12/15/33 Docket No. [illegible]

6

566

| SHIPPED VIA | YOUR ORDER NO. | | DATE SHIPPED | OUR ORDER NO. |
|---|---|---|---|---|
| DAILY'S | 11-25-50 | | 11-29 | 22827 |

| DESCRIPTION | QUANTITY | BACK ORDERED | SHIPPED | ✓ | UNIT PRICE | TOTAL |
|---|---|---|---|---|---|---|
| CUNI T AU-18-22 | 2 | | 2 | | .64 | 1.28 |
| CUNI T AU-18-23 | 2 | | 2 | | .64 | 1.28 |
| CUNI T AU-18-27 | 1 | | 1 | | .64 | .64 |
| CUNI T AU-25-9 | 1 | | 1 | | .64 | .64 |
| CUNI T FH-5-6 | 1 | 1 | | | | |
| CUNI AU-118 | 1 | | 1 | | .64 | .64 |
| CUNI FH-103 | 1 | | 1 | | .64 | .64 |
| HUT AU-93 | 1 | | 1 | | .64 | .64 |
| HUT AU-101 | 1 | | 1 | | .64 | .64 |
| HUT FH-71 | 1 | | 1 | | .64 | .64 |
| HUT FH-77 | 1 | | 1 | | .64 | .64 |
| DISI AP AU-74 | 1 | | 1 | | .64 | .64 |
| DISI AP AU-88 | 1 | | 1 | | .64 | .64 |
| DISI AP AU-92 | 1 | | 1 | | .64 | .64 |
| DISI AP AU-102 | 1 | | 1 | | .64 | .64 |
| DISI AP AU-104 | 1 | | 1 | | .64 | .64 |
| DISI AP AU-114 | 1 | | 1 | | .64 | .64 |
| DISI AP FH-75 | 1 | | 1 | | .64 | .64 |
| DISI A FH-90 | 1 | | 1 | | .64 | .64 |
| HU E FH-37X | 1 | | 1 | | .64 | .64 |
| HU E FH-45 | 1 | | 1 | | .64 | .64 |
| HU E FH-31 | 1 | | 1 | | .64 | .64 |
| HU E FH-37 | 1 | | 1 | | .64 | .64 |
| HU E FH-46 | 1 | | 1 | | .64 | .64 |
| HU E FH-51 | 1 | | 1 | | .64 | .64 |
| HU E FH-58T | 1 | | 1 | | .64 | .64 |
| HU C FH-9 | 1 | | 1 | | .64 | .64 |
| HU C FH-51 | 1 | | 1 | | .64 | .64 |
| HU C FH-54 | 1 | | 1 | | .64 | .64 |
| HU C FH-55 | 1 | | 1 | | .64 | .64 |
| HU C FH-60 | 1 | | 1 | | .64 | .64 |
| HU C FH-71 | 1 | 1 | | | | |

NO CLAIMS ALLOWED UNLESS MADE WITHIN 5 DAYS AFTER RECEIPT OF GOODS.

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496 y>E

TERMS: 2% 10TH PROX., 30 DAYS NET

| DESCRIPTION | QUANTITY | BACK ORDERED | SHIPPED | ✓ | UNIT PRICE | TOTAL |
|---|---|---|---|---|---|---|
| [illegible] | 6 | | 6 | | [illegible] | [illegible] |
| [illegible] | 4 | | 4 | | [illegible] | [illegible] |
| [illegible] | 1 | | 1 | | [illegible] | [illegible] |
| [illegible] | 1 | | 1 | | [illegible] | [illegible] |
| [illegible] | 1 | | 1 | | [illegible] | [illegible] |
| [illegible] | 1 | | 1 | | [illegible] | [illegible] |
| [illegible] | 2 | 2 | | | [illegible] | [illegible] |
| [illegible] | 2 | | 2 | | [illegible] | [illegible] |
| [illegible] | 4 | | 4 | | [illegible] | [illegible] |
| [illegible] | 4 | | 4 | | [illegible] | [illegible] |
| [illegible] | 1 | | 1 | | [illegible] | [illegible] |
| [illegible] | 2 | 2 | | | [illegible] | [illegible] |
| [illegible] | 2 | | 2 | | [illegible] | [illegible] |
| [illegible] | 2 | | 2 | | [illegible] | [illegible] |
| [illegible] | 1 | | 1 | | [illegible] | [illegible] |
| [illegible] | 2 | | 2 | | [illegible] | [illegible] |
| [illegible] | 2 | | 2 | | [illegible] | [illegible] |
| [illegible] | 2 | | 2 | | [illegible] | [illegible] |

NO CLAIMS ALLOWED UNLESS MADE WITHIN 5 DAYS AFTER RECEIPT OF GOODS.

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2 498 .129

TERMS: 2% 10TH PROX., 30 DAYS NET

| SHIPPED VIA | YOUR ORDER NO. | | SALES SHIPPED | OUR ORDER NO. |
|---|---|---|---|---|
| DALEYS | 6481 | | 11170 | 120676 |

| DESCRIPTION | QUANTITY | BACK ORDERED | SHIPPED | ✓ | UNIT PRICE | TOTAL |
|---|---|---|---|---|---|---|
| CONTACT AU-18 | 50 | | 50 | | .40 | 18.00 |
| CONT SET AU-18-21 | 30 | | 30 | | .44 | 13.20 |
| CONT SET AU-18-23 | 30 | | 30 | | .44 | 13.20 |
| CONT SET AU-18-27 | 10 | | 10 | | .44 | 4.40 |
| CONT SET AU-19-9 | 10 | | 10 | | .44 | 4.40 |
| CONTACT AU-21 | 30 | | 30 | | .44 | 13.20 |
| ROTOR AU-93 | 20 | | 20 | | .44 | 8.80 |
| DIST CAP AU-108 | 10 | | 10 | | .77 | 7.70 |
| DIST CAP AU-110 | 10 | | 10 | | .90 | 9.00 |
| COIL FC-9 | 6 | 6 | | | | |
| CONT SET FR-12-13 | 10 | | 10 | | 2.69 | 26.90 |
| CONT SET FR-16-17 | 30 | | 30 | | 1.32 | 39.60 |
| COND FRC-103 | 10 | | 10 | | .25 | 2.50 |
| COND FRC-107 | 20 | | 20 | | .25 | 5.00 |
| COND FRC-109 | 10 | | 10 | | .27 | 2.70 |
| COND FRC-110 | 30 | | 30 | | .25 | 7.50 |
| COIL LC-10 | 6 | | 6 | | 2.22 | 13.32 |
| COIL LC-128 | 6 | | 6 | | 2.22 | 13.32 |
| CONTACT RE-18 | 500 | | 500 | | .06 | 30.00 |
| CONT SET RE-18-22 | 200 | | 200 | | .06 | 12.00 |
| CONT SET RE-18-24 | 200 | | 200 | | .06 | 12.00 |
| CONTACT RE-24 | 200 | | 200 | | .06 | 12.00 |
| CONTACT RE-28 | 200 | | 200 | | .06 | 12.00 |
| CONT SET RE-28-29 | 200 | | 200 | | .06 | 12.00 |
| CONTACT RE-31 | 200 | | 200 | | .06 | 12.00 |
| DIST CAP RE-90 | 6 | | 6 | | .60 | 3.60 |
| ROTOR RE-97 | 20 | | 20 | | .80 | 16.00 |
| DIST CAP RE-106 | 200 | | 200 | | .56 | 112.00 |
| BR SET RE-51 | 100 | | 100 | | .56 | 56.00 |
| SWITCH RW-51 | 15 | | 15 | | .56 | 8.40 |
| SWITCH RW-55 | 6 | 6 | | | | |
| SWITCH RW-62 | 10 | | 10 | | .43 | 4.30 |
| COND UC-105A | 50 | | 50 | | .24 | 12.00 |

NO CLAIMS ALLOWED UNLESS MADE WITHIN 5 DAYS AFTER RECEIPT OF GOODS.

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TERMS 2% 10TH PROX., 30 DAYS NET

| SHIPPED VIA: | YOUR ORDER NO. | | DATE SHIPPED | | OUR ORDER NO. | |
|---|---|---|---|---|---|---|
| DESCRIPTION | QUANTITY | BACK ORDERED | SHIPPED | ✓ | UNIT PRICE | TOTAL |
| COND UC-107<br>VOLT FG VH-109H | 10<br>2 | 2 | 10 | | 36 | 360 |
| | | | | | | 84.82.60 |

NO CLAIMS ALLOWED UNLESS MADE WITHIN 5 DAYS AFTER RECEIPT OF GOODS.

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